

Hearing Date: April 28, 2021 at 9:30 am (ET) / 9:30 a.m. (AST)
Objection Deadline: April 20, 2021 at 5:00 p.m. (ET) / 5:00 p.m. (AST)

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

----- X

In re:

PROMESA
Title III

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

No. 17 BK 3283-LTS

THE COMMONWEALTH OF PUERTO RICO, *et al.*, (Jointly Administered)

Debtors.¹

----- X

**OBJECTION OF AMERICAN FEDERATION OF TEACHERS,
AFL-CIO ON BEHALF OF ITSELF AND ITS LOCAL AFFILIATES, ASOCIACIÓN DE
MAESTROS DE PUERTO RICO AND ASOCIACIÓN DE MAESTROS DE PUERTO
RICO-LOCAL SINDICAL, TO RENEWED MOTION OF OFFICIAL COMMITTEE OF
UNSECURED CREDITORS PURSUANT TO FEDERAL RULE OF BANKRUPTCY
PROCEDURE 3013 FOR ENTRY OF AN ORDER RECLASSIFYING
CLASS 48A AND CLASS 55 CLAIMS UNDER OVERSIGHT BOARD'S
PLAN OF ADJUSTMENT DATED MARCH 8, 2021**

American Federation of Teachers, AFL-CIO (“AFT”),² on behalf of itself and its local affiliates, AMPR, defined below, as and for its Objection to the Renewed Motion of the Official

¹ The Debtors in these Title III cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283 (LTS)) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284 (LTS)) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567 (LTS)) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566 (LTS)) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780 (LTS)) (Last Four Digits of Federal Tax ID: 3747); and Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5233 (LTS)) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² AFT is a member of the Creditors’ Committee. However, AFT submits this response in its individual capacity and not in its capacity as a committee member or on behalf of the Creditors’ Committee.

Committee of Unsecured Creditors (the “Creditors’ Committee”) pursuant to Federal Rule of Bankruptcy Procedure 3013 For Entry of An Order Reclassifying Class 48A and Class 55 Claims under Oversight Board’s Plan of Adjustment dated March 8, 2021 (the “Motion”)³ respectfully represents as follows:

1. AFT is a labor union affiliated with the AFL-CIO that represents over 1.6 million members (primarily teachers) in more than 3,000 local affiliates across the United States. AFT’s affiliated local chapters in Puerto Rico, the Asociación de Maestros Puerto Rico and the Asociación de Maestros de Puerto Rico-Local Sindical (together “AMPR”) are the Commonwealth’s largest public employee labor organizations representing approximately 30,000 active teachers and other public school employees and retirees. AMPR’s teachers are dedicated public servants who work, often under grueling conditions, to educate the children of Puerto Rico, notwithstanding the natural disasters such as the recent hurricanes and earthquakes, the Covid-19 pandemic and the financial disasters which have wreaked havoc on the education system.

2. AFT and AMPR oppose the Motion to classify general unsecured claims with public employee retiree claims; it is based upon the false premise that the claims of general unsecured creditors can be likened to and are “legally indistinguishable from” the pension and other obligations owed to public employees on account of their faithful service to the Commonwealth.

3. That Creditors Committee’s position ignores:

³ AFT filed an objection to the Motion when it was originally filed by the Creditors’ Committee last year. The original Motion was filed at Docket No. 11989; AFT’s objection was filed at Docket No. 12084.

- i. current bankruptcy law in the governmental insolvency context (see, e.g., In re City of Detroit, 524 B.R. 147, 257 (Bankr. E. D. Mich. 2014) (recognizing the city’s “substantial mission-related justification to propose a higher recovery to its pension creditors”));
- ii. this Court’s pronouncement in its *Memorandum Opinion and Order Denying Renewed Motion of Certain Secured Creditors of the Employees Retirement System of the Government of the Commonwealth of Puerto Rico for Appointment as Trustees under 11 U.S.C. § 926*, dated January 7, 2020 [Case No. 17 BK 3566-LTS, Docket No.763] that:

“unlike the commercial focus of bankruptcy cases of private entities, the ‘primary purpose’ of governmental insolvency proceedings “is not future profit, but rather continued provision of public services.” In re Mount Carbon Metro. Dist., 242 B.R. 18,34 (Bankr. D. Colo. 1999)” such as education, health and safety; and

- iii. the reality in Puerto Rico that, as the Detroit court noted about the city, the Commonwealth’s “employees and retirees are and were the backbone of the structures by which [it] fulfills its mission.” Id. at 147.

4. AFT and AMPR are and have been emphatic through this PROMESA bankruptcy and over the years in strongly rejecting any and all measures, whether by the government, the bondholders or any party or creditor, that negatively impact active and retired teachers or attempts against the dignified retirement of the public servants of Puerto Rico.

WHEREFORE, AFT, on behalf of itself and AMPR, respectfully requests that this Court enter an order denying the Motion and granting such other relief as is just and proper.

Dated: April 20, 2021

/s/ Jose Luis Barrios-Ramos

José Luis Barrios-Ramos, ESQ.
PRESTIGE LEGAL SERVICES, LLC
278 Ave. César González
San Juan, Puerto Rico 00918
Telephone: (787) 593-6641
jbarrios@prestigelegalpr.com

-and-

By: /s/ Kenneth Pasquale

Kenneth Pasquale (admitted *pro hac vice*)
Sherry J. Millman (admitted *pro hac vice*)
STROOCK & STROOCK & LAVAN LLP
180 Maiden Lane
New York, New York 10038
Telephone: (212) 806-5400
Facsimile: (212) 806-6006
kpasquale@stroock.com
smillman@stroock.com

*Attorneys for the American Federation of Teachers,
AFL-CIO on behalf of itself and its local affiliates,
Asociación de Maestros de Puerto Rico and
Asociación de Maestros de Puerto Rico-Local
Sindical*

CERTIFICATE OF SERVICE

I hereby certify that I filed this document electronically with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to all parties of record in the captioned case.

At New York, New York, this 20th day of April, 2021.

By: /s/ Kenneth Pasquale
Kenneth Pasquale*
* admitted *pro hac vice*